



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 4431-99

5 August 1999

CAPT [REDACTED] USMC  
[REDACTED]  
[REDACTED]

Dear Captain [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 August 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 7 July 1999, a copy of which is attached. They also considered your rebuttal letter dated 26 July 1999 with enclosures.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB.

The Board noted that your reviewing officer (RO) acknowledged your additional duty as the Japanese Officer Exchange Program Officer and your participation in the Amphibious Warfare School Nonresident Program. They were unable to find that you were not counseled concerning your performance during the reporting period, noting that your RO states he is satisfied that your reporting senior (RS) did counsel you. In any case, they generally do not grant relief on the basis of a lack of counseling, since counseling takes many forms, so the recipient may not recognize it as such when it is provided. They likewise were unable to find your expected standards were not defined. They could not conclude that your RO erred by stating that the command's success in a Marine Corps Combat Readiness Evaluation was due primarily to a gunnery sergeant, or in stating that the gunnery sergeant, rather than you, authored the letter of instruction for the evaluation. They noted that your RO did not deny

you had received the training needed for this evaluation, but stated that you lacked the requisite skills and experience. Finally, they found that the PERB properly treated your report at issue as adverse, given your RS's comments.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

4431-99

IN REPLY REFER TO:  
1610  
MMER/PERB  
JUL 7 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF  
[REDACTED] D [REDACTED] USMC

Ref: (a) Captain [REDACTED]'s DD Form 149 of 15 Dec 98  
(b) MCO P1610.7D w/Ch 1-5

Encl: (1) Completed Fitness Report 980403 to 980731 (DC)

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 26 February 1999 to consider Captain [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 980403 to 980731 (DC) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report fails to reflect/outline his accomplishments during the reporting period and believes the report does not comply with the provisions of reference (b). To support his appeal, the petitioner furnishes his own statement, results of a Commanding General's Inspection (CGI), and other various forms of documentation which he believes supports his appeal.

3. In its proceedings, the PERB concluded that:

a. The overall tenor of the Section C narrative, coupled with the Reviewing Officer's comments that the petitioner "...performs most duties adequately, warranted the petitioner's signature in Item 24 and the opportunity to respond. Owing to the relative recency of the report at the time the PERB first considered reference (a) (i.e., seven months), the Board concluded that referral at that time would be appropriate.

b. All referral action, to include third sighting by a General Officer, has been accomplished. We specifically note that the Reviewing Officer has dispelled any perception that the petitioner's performance was anything other than as recorded/evaluated by the Reporting Senior. In this regard, and notwithstanding the documentation furnished in support of reference (a), the Board discerns absolutely no error or injustice. Likewise, the challenged fitness report does not violate any of the provisions of reference (b).

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF  
CAPTAIN [REDACTED], USMC

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report, as reflected in the enclosure, should remain a part of Captain [REDACTED]'s official military record.

5. The case is forwarded for final action.

[REDACTED]

Colonel, U.S. Marine Corps  
Deputy Director  
Personnel Management Division  
Manpower and Reserve Affairs  
Department  
By direction of the Commandant  
of the Marine Corps